

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 2 2019/2020

### ULB2612 –LABOUR LAW

(All Sections / Groups)

14 March 2020

Reading Time : 9.00 a.m. – 9.15 a.m.  
(15 Minutes)

Answering Time : 9.15 a.m. – 12.15 p.m.  
(3 Hours)

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#### INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 Pages and 5 Questions only.
3. Section A is Compulsory. In Section B attempt either Question 4(a) or 4(b). The distribution of the marks for each question is given.
4. Students are allowed to bring into exam hall a **CLEAN** and **ORIGINAL** copy of:
  - i. Employment Act 1955
  - ii. Industrial Relations Act 1967
  - iii. Trade Union Act 1959"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided

**PART A: ANSWER ALL QUESTIONS****QUESTION 1**

"A contract of service exists if the following three (3) conditions are satisfied.

- (i) The servant agrees that, in consideration of a wage or other remuneration, will provide his own work and skill in the performance of some service for master.
- (ii) He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master.
- (iii) The other provisions of the contract are consistent with its being a contract of service."

- As per MacKenna J, in *Ready Mixed Concrete (South East) Ltd v. MPNI* [1968] 2 QB 497

Relying on the above statement, discuss the different tests and approaches being adopted by the courts in determining whether a contract is a **contract of service** or a **contract for service**.

Support your answer with cases decided in the Malaysian Courts.

**(Total: 25 marks)**

**QUESTION 2**

The Employees Provident Fund (EPF) is one of the world's oldest provident funds. Established in 1951, EPF helps the Malaysian workforce to save for their retirement in accordance to the Employees Provident Fund Act 1991. Today, the EPF continues to refine that vision to not only stay relevant to create a better security for retirement to its members, there are also supplementary benefits. It allows employees to make a partial or full withdrawal from their savings to meet the specific needs that are in line with the EPF's current policies.

Discuss your understanding on the benefits of EPF, both on the full and partial withdrawals to meet the specific needs.

**(Total: 25 marks)**

**Continued.....**

**QUESTION 3**

The Chemical Trade Union of Peninsular Malaysia (the trade union) invited Syarikat Kimia Bagus Sdn Bhd (the company) for a collective bargaining. The invitation was rejected without giving any reasons. The members of the trade union had an emergency meeting where they unanimously agreed to go on strike through a secret ballot. However, Ali, the trade union secretary did not submit the resolution for the strike to the Director General of Trade Unions. The trade union went on strike for 3 days. On the 4th day, the members came to work but found that the premise was locked. This went on for 2 days before the Director General for Industrial Relations intervened.

Based on the above facts, discuss whether the strike and the lock out are valid.

**(Total: 25 marks)**

**Continued...**

**PART B**

**ANSWER either question 4(A) OR 4(B) only**

**QUESTION 4(A)**

- (a) Lim is employed as a security guard in a shopping mall. He is paid a salary of RM 2,200.00 per month inclusive of RM300.00 for subsistence allowance and RM200.00 for travelling allowance. He works from 8.00 a.m. to 8.00 p.m. every day, including Sundays.

Advise Lim as to what is his wages and whether he can claim for overtime.

(12.5 marks)

- (b) With reference to decided cases, discuss whether an employee who is paid a fixed salary can make a complaint against his employer who does not provide him with work to be done.

(12.5 marks)

**(Total: 25 marks)**

**OR**

**QUESTION 4(B)**

Yusof, the manager of Syarikat Bagus Sdn Bhd, received a report of Joe's misconduct. Joe's monthly salary is RM1,800.00. Yusof wants you to prepare a report on the following issues:

- (a) Whether a domestic inquiry is mandatory in Joe's case?

(5 marks)

- (b) What are the rules for a valid domestic inquiry?

(10 marks)

- (c) What are the remedies available for Joe if he is dismissed for misconduct?

(10 marks)

**(Total: 25 marks)**

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